

SENATE BILL 837

By Taylor

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 4, relative to tax credits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part:

67-4-1301.

This part is known and may be cited as the "Pregnancy Resource Tax Credit Act."

67-4-1302.

For purposes of this part:

- (1) "Department" means the department of revenue; and
- (2) "Eligible charitable organization" means an organization that:
 - (A) Is exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));
 - (B) Is a nonprofit organization formed under title 48;
 - (C) Is a pregnancy center or residential maternity facility that:
 - (i) Maintains in this state its primary physical office, clinic, or residential home, which is open for clients for a minimum of twenty (20) hours per week, excluding state holidays, and regularly answers a dedicated phone line during these hours for clients;

(ii) Offers services, at no cost or low cost to the client, for the express purpose of providing assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion, and promote healthy childbirth;

(iii) Utilizes trained and licensed medical professionals to perform any available medical procedures;

(iv) Has residents of this state comprising at least fifty percent (50%) of the organization's clients; and

(v) In the prior fiscal year did not receive more than fifty percent (50%) of its total revenue from federal, state, and local government grant sources, either directly or as a contractor; and

(D) Has submitted written certification to the department confirming the organization's eligibility under the criteria established in subdivisions (2)(A)-(C).

67-4-1303.

(a) The tax credit authorized in this part is available only to a taxpayer that is a business enterprise engaged in commercial, industrial, or professional activities and operating as a corporation, limited liability company, partnership, or sole proprietorship.

(b)

(1) Except as otherwise provided in this part, a credit is allowed against business, excise, and franchise taxes paid pursuant to parts 7, 20, and 21 of this chapter by the taxpayer.

(2) The credit is equal to monetary contributions made by the taxpayer during a taxable year to an eligible charitable organization; provided, that the amount of credit that may be utilized by the taxpayer in a taxable year is limited

to fifty percent (50%) of the total tax liability of the taxpayer for business, excise, and franchise taxes.

(3) Any unused credit may be carried forward in any tax period until the credit is taken; however, the credit may not be carried forward for more than five (5) years.

(4) The credit allowed under this part is for taxes only and is not allowed for penalty and interest.

(c) A taxpayer who claims a credit authorized by this part shall use forms prescribed by the department and provide the name of any eligible charitable organization receiving funds from the taxpayer and the amount of the contribution. In the application the taxpayer shall certify to the department the dollar amount of the contributions made to the eligible charitable organization during the taxable year, and provide evidence of the contributions as required by the department.

67-4-1304.

(a) An eligible charitable organization must provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization for a taxpayer to receive tax credits pursuant to this part. The organization shall notify the department within sixty (60) days of any changes that may adversely affect the organization's eligibility status.

(b) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

(1) Verification of the organization's nonprofit status under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(2) A statement that the organization does not provide, pay for, refer for, promote, or provide coverage of medication or surgical abortions and does not financially support or legally partner or affiliate with another entity that provides, pays for, refers for, promotes, or provides coverage of medication or surgical abortions; and

(3) A statement that the organization:

(A) Maintains in this state the organization's primary physical office, clinic, or residential home, which is open for clients for a minimum of twenty (20) hours per week, excluding state holidays, and regularly answers a dedicated phone line during these hours for clients;

(B) Offers services, at no cost or low cost to the client, for the express purpose of providing assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion, and promote healthy childbirth;

(C) Utilizes trained and licensed medical professionals to perform any available medical procedures; and

(D) Has residents of this state comprising at least fifty percent (50%) of the organization's clients.

(c) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations on the department website.

67-4-1305.

(a) Tax credits authorized by this part that are earned by a partnership, limited liability company, S corporation, or other similar pass-through entity, must be allocated among all partners, members, or shareholders, respectively, either in proportion to their ownership interest in the entity or as the partners, members, or shareholders mutually agree as provided in an executed document.

(b) Within thirty (30) days after the receipt of an application, the department shall allocate tax credits based on the dollar amount of contributions as certified in the application; provided, that the aggregate amount of tax credits that may be allocated by the department under this part during a taxable year must not exceed five million dollars (\$5,000,000).

(c) If the department cannot allocate the full amount of credits certified in an application due to the limit on the aggregate amount of credits that may be awarded under this part in a taxable year, the department shall notify the applicant within thirty (30) days regarding the amount of credits, if any, that may be allocated to the applicant in the taxable year.

(d) Notwithstanding this part, for credits allocated during a taxable year from contributions to eligible charitable organizations, no more than twenty percent (20%) of the credits may be allocated for contributions to a single eligible charitable organization.

SECTION 2. For purposes of promulgating forms, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it, and applies to tax years beginning on or after that date.